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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,518	04/09/2001	Victor D. Dolecek	P9529	1198
7590 05/20/2004			EXAMINER	
STEVEN C PETERSEN HOGAN & HARTSON LLP ONE TABOR CENTER 1200 17TH STREET SUITE 1500 DENVER, CO 80202			WITZ, JEAN C	
			ART UNIT	PAPER NUMBER
			1651	
DATE MAILED: 05/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/832,518	Applicant(s) DOLECEK, VICTOR D.	
	Examiner Jean C. Witz	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baugh et al. (U.S. Patent 6,444,228) in view of WO 9800161, JP 11246420, Sims et al. and Shah et al.

The claims are drawn to autologous molded platelet gel compositions and methods of making same.

Baugh et al. teaches autologous fibrin sealants which comprises either platelet rich plasma or platelet poor plasma. The thrombin that is used to initiate clotting in either plasma compositions is obtained from a portion or the originally collected platelet rich or platelet poor plasma. These compositions are used to not only as a hemostatic agent but also treat wounds, in bone reconstruction surgery (such as binding bone fragments) and as a matrix for delivery of drugs and proteins with other biologic

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activities. The only aspect of the claims that is not specifically disclosed is the formation of the platelet gel into a predetermined shape.

WO 9800161 teaches that fibrin-based matrix provides an erodable matrix for the controlled release of therapeutics. The reference specifically teaches that the fibrin may be molded by pouring the components into a mold and the polymerization of the fibrinogen allows the composition to take the shape of the mold.

Sims et al. teach that fibrin monomers can be polymerized into moldable gels and used for the encapsulation of isolated chondrocytes and autogenous grafts for facial skeletal and soft-tissue augmentation.

Shah et al. compares fibrin gels and plasma clots with platelet rich plasma clots. Platelet rich plasma clots have a higher elastic resistance to deformation than fibrin clots.

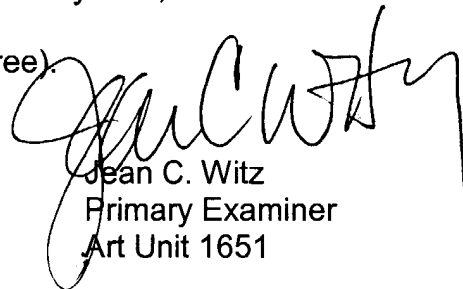
It would have been obvious to one of ordinary skill in the art at the time the invention was made formulate the platelet rich plasma products of Baugh into predetermined shapes since both WO 9800161 and Sims teach the benefit of shaping fibrin gels. Both references also teach that the gels may be moldable and JP 11246420 states that the gel may be moldable to the configuration of the wound site. JP 11246420 teaches that there should be no rejection so platelets should be autologous.

The practitioner would have been further motivated to use a platelet rich plasma with the expected benefit that the gel will resist deformability when used, per the disclosure of Shah.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean C. Witz whose telephone number is (571) 272-0927. The examiner can normally be reached on 6:30 a.m. to 4:00 p.m. M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jean C. Witz
Primary Examiner
Art Unit 1651